IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

MFA.No. 1059 of 1998(B)

O.P(MV).NO.672/1996 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, OTTAPALAM.
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APPELLANT:

C.V. AVIRACHAN,
S/O. VARGHESE, CHAKKATTIL HOUSE,
ANGAMALY, ERNAKULAM DISTRICT.

BY ADV. SRI.K.PRABHAKARAN,
SRI.JOSE THETTAYIL.

RESPONDENTS:
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1. **SMT. K. AYISHA,**
W/O. LATE D.M. AHAMEDKUNHI,
PUTHIYARA, CALICUT - 4.

2. **P.K. RAMAKRISHNAN,**
S/O. KOCHUKUTTAN,
PULLAZHI VILLAGE,
AYYANTHOLE, TRICHUR.

3. **M/S. UNITED INDIA INSURANCE CO. LTD.,**
REPRESENTED BY THE BRANCH MANAGER,
P.B. NO. 192, 17/474, WESTERN COMPLEX,
MAVOOR ROAD, CALICUT - 673 004.

BY ADV. SRI.A.A.MOHAMMED NAZIR.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 19/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY and K.P.BALACHANDRAN, JJ.

M.F.A. No. 1059 of 1998

Dated this the 19th day of June, 2007

Judgment

Koshy, J.

Driver of a private car bearing registration No. KBF 1617 met with an accident due to rash and negligent driving of a stage carriage bearing registration No.KER 7212. He sustained serious injuries. The accident occurred on 6.10.1989. He had undergone treatment for 17 days as an inpatient in Aswini Hospital. Thereafter, he was on plaster cast. According to him, he was getting Rs.1,000/- per month as salary and another Rs.1,000/- for day-to-day expenses. Thus, Rs.2,000/- was the monthly income. The injury sustained by him was compound comminuted fracture of left shin bone. He was aged 41. As per Ext.A24 certificate, his disability was 35% to 40%. The tribunal has awarded reimbursement of expenses with respect to actual medical bills produced. His main grievance is that even though the tribunal considered the age and occupation, the tribunal has granted Rs.15,000/- towards compensation for permanent disability taking only Rs.800/- as the monthly income.

He was a professional driver. Considering the compound comminuted fracture of left shin bone, we are of the view that another Rs.10,000/- should be given as additional compensation for disability and loss of earning power. The above amount of Rs.10,000/- should be deposited by the third respondent insurance company with 7% interest from the date of application till its deposit. On deposit of the amount, the appellant is entitled to withdraw the same.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
K.P.BALACHANDRAN, JJ.

M.F.A.NO.1059/98

JUDGMENT

Dated:19th June, 2007